

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19898
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On December 12, 2006, the Revenue Operations Division of the Idaho State Tax Commission denied a request [Redacted] (taxpayers) for refund of Idaho individual income tax in the amount of \$9.00 for the period ending December 31, 1997; \$125 for the period ending December 31, 1998; and \$140 for the period ending December 31, 1999. The taxpayers filed a timely protest and petition for redetermination of the refund denials. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The taxpayers submitted their 1997 through 1999 Idaho individual income tax returns to the Tax Commission for processing. Because the time for claiming the refunds shown in the three returns had expired, a letter was mailed to the taxpayers advising them of the Tax Commission's intent to deny the refunds. The taxpayers objected, and a Notice of Deficiency Determination was issued. The taxpayers were advised the refunds were denied, and they had a right to appeal the determination.

Idaho Code § 63-3032 defines the due date of Idaho income tax returns:

**63-3032. Time for filing income tax returns.** (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the 15th day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the 15th day of the fourth month following the close of the fiscal year.

As residents of Idaho with taxable income, the taxpayers were required to file Idaho individual income tax returns. The returns were made on the basis of a calendar year; therefore, they were required to be filed on or before April 15 following the close of each calendar year. When the taxpayers did not comply with the requirement to file their income tax returns within a certain timeframe, they put their refunds in jeopardy.

The taxpayers offered no explanation for not filing timely returns for the periods in question. Rather, they question the State Tax Commission's authority for disallowing refund of their grocery credits.

Idaho Code § 63-3024A states:

**63-3024A. Credits and refunds.** (a) Any resident individual not entitled to the credit allowed in subsection (b)(1), who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of twenty dollars (\$20.00) for each personal exemption for which a deduction is permitted by section 151(b) and (c) of the Internal Revenue Code if such deduction is claimed on the taxpayer's Idaho income tax return, and if the individual for whom the deduction is claimed is a resident of the state of Idaho. If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer.

(b) (1) A resident individual who has reached his sixty-fifth birthday before the end of his taxable year, who is required to file by law and who has filed an Idaho income tax return, shall be allowed a credit against taxes due under the Idaho income tax act equal to the amount of thirty-five dollars (\$35.00) for each personal exemption representing himself, a spouse over the age of sixty-five (65) years, or a dependent over the age of sixty-five (65) years, but shall be allowed a credit against taxes due under the Idaho income tax act equal to twenty dollars (\$20.00) for each personal exemption representing a spouse or dependent under the age of sixty-five (65) years. If taxes

due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. If the credit or refund is not claimed for the year for which the individual income tax return is filed, the right thereafter to claim such credit or refund shall be forfeited. The state tax commission shall prescribe the method by which the refund, if any, is to be made to the taxpayer.

(2) A resident individual who has reached his sixty-fifth birthday and is not required by law to file an Idaho income tax return and who has received no credit or refund under any other subsection of this section, shall be entitled to a refund of thirty-five dollars (\$35.00). Any refund shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

(c) A resident individual of the state of Idaho who is:

(i) blind, or

(ii) a disabled American veteran of any war engaged in by the United States, whose disability is recognized as a service connected disability of a degree of ten percent (10%) or more, or who is in receipt of a pension for nonservice connected disabilities, in accordance with laws and regulations administered by the United States veterans administration, substantiated by a statement as to status signed by a responsible officer of the United States veterans administration, or

(iii) over sixty-two (62) years of age, and has been allowed none, or less than all, of the credit provided by subsection (a) or subsection (b) of this section, shall be entitled to a payment from the refund fund in an amount equal to twenty dollars (\$20.00), or the balance of his unused credit, whichever is less, upon making application therefor at such time and in such manner as the state tax commission may prescribe.

(d) Any part-year resident entitled to a credit under this section shall receive a proportionate credit, in the manner above provided, reflecting the part of the year in which he was domiciled in this state.

(e) No credit or refund may be claimed for an exemption which represents a person who has himself filed an Idaho income tax return claiming a deduction for his own personal exemption, and in no event shall more than one (1) taxpayer be allowed a credit or refund for the same exemption, or under more than one (1) subsection of this section.

(f) The refunds authorized by this section shall be paid from the state refund fund in the same manner as the refunds authorized by section 63-3067, Idaho Code.

**(g) An application for any refund which is due and payable under the provisions of this section must be filed with the state tax commission within three (3) years of:**

- (i) the due date, including extensions, of the return required under section 63-3030, Idaho Code, if the applicant is required to file a return, or**
- (ii) the 15<sup>th</sup> day of April of the year following the year to which the application relates if the applicant is not required to file a return. (Emphasis added.)**

Idaho law provides for a credit against taxes; however, the claim for credit must be made within a certain timeframe. The taxpayers made their claim for a credit when they filed all three returns on October 25, 2006. Unfortunately, the time allowed for claiming the 1997 credit expired on April 15, 2001; the time allowed for claiming the 1998 credit expired on April 15, 2002; and the time allowed for claiming the 1999 credit expired on April 15, 2003.

Idaho Code § 63-3072 is clear and unequivocal. The language in these sections “must be filed. . .” is not discretionary, but rather, it is mandatory. The Tax Commission finds Idaho Code § 63-3024A, cited above, is controlling with respect to the taxpayers’ refund claims for tax years 1997, 1998, and 1999. No refunds can be given.

WHEREFORE, the Notice of Deficiency Determination [Redacted], dated December 12, 2006, that denies the taxpayers a refund is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners’ right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]  
[REDACTED]  
[REDACTED]

Receipt No.

\_\_\_\_\_